

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

<b>MICHAEL MCCARTHY, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	<b>No. 1:20-cv-10701-DPW</b>
<b>-against-</b>	)	
	)	
<b>CHARLES D. BAKER, in his Official</b>	)	
<b>Capacity as Governor of the</b>	)	
<b>Commonwealth of Massachusetts, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**NATIONAL SHOOTING SPORTS FOUNDATION’S MOTION FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFFS’ MOTION FOR A  
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

National Shooting Sports Foundation (“NSSF”) hereby moves for leave to file an amicus curiae brief in support of Plaintiffs’ motion for a temporary restraining order and preliminary injunction. NSSF is the national trade association for the firearms, ammunition, and hunting and shooting sports industry. NSSF’s membership includes over 9,000 federally licensed firearms manufacturers, distributors, and retailers, as well as companies selling shooting and hunting-related goods and services, many of which are incorporated or conduct business in Massachusetts.

NSSF seeks leave to file the attached brief to assist the Court in addressing the impact of Massachusetts’ COVID-19 Order on Massachusetts firearms retailers and law-abiding citizens.

**ARGUMENT**

Plaintiffs’ motion challenges Defendants’ enforcement of COVID-19 Orders to close firearms retailers as “non-essential” businesses that are not permitted to operate for the duration of the COVID-19 public health crisis. Notwithstanding the fact that firearms retailers provide essential services, Defendants have halted all firearm and ammunition commerce in the

Commonwealth, infringing on the Second Amendment rights of Massachusetts citizens and its firearm retailers. This Order uniquely, and substantially, impacts NSSF's membership; therefore, NSSF seeks leave to file the attached amicus curiae brief to assist the Court in its ruling on the Plaintiffs' motion for a temporary restraining order and preliminary injunction.

Although there is no specific procedural rule permitting amicus briefs in federal district court, "the acceptance of amicus briefs is within the sound discretion of the court." *Trustees of Boston Univ. v. Vyrian, Inc.*, 2013 WL 12129604, at \*4 (D. Mass. Oct. 29, 2013) (internal quotation marks omitted). As this Court has noted, "thoughtful *amicus* submissions" can be "quite helpful in putting the immediate controversy in its larger context." *Gallo v. Essex Cnty. Sheriff's Dep't*, 2011 WL 1155385, at \*6 n.7 (D. Mass. Mar. 24, 2011) (Woodlock, J.). The attached amicus curiae brief would substantially advance this Court's contextual understanding by addressing the essential nature of firearms retailers and the Second Amendment right to sell firearms.

NSSF was formed in 1961, and for over 50 years its mission has been "to promote, protect and preserve hunting and the shooting sports" on behalf of its member firearm and ammunition manufacturers, distributors, and retailers. The COVID-19 Orders substantially hinder NSSF's mission and prohibit its members from engaging in firearm and ammunition commerce within the Commonwealth. Because of NSSF's long history of advocating for its membership and for the Second Amendment rights of all citizens, it respectfully represents that it can provide this Court with a unique perspective on the issues before it.

## **CONCLUSION**

For the foregoing reasons, National Shooting Sports Foundation requests that it be permitted to file the attached amicus curiae brief in support of the Plaintiffs' motion for a temporary restraining order and preliminary injunction.

**NATIONAL SHOOTING SPORTS FOUNDATION,**

By its Attorneys,

CAMPBELL CONROY & O'NEIL, P.C.

*/s/ Jacob J. Lantry*

---

James M. Campbell (BBO #541882)  
Jacob J. Lantry (BBO #690452)  
Campbell Conroy & O'Neil, P.C.  
One Constitution Wharf, Suite 310  
Boston, MA 02129  
(617) 241-3000  
jmcampbell@campbell-trial-lawyers.com  
jlantry@campbell-trial-lawyers.com

BRADLEY ARANT BOULT CUMMINGS LLP

John Parker Sweeney\*  
James W. Porter III\*  
Connor M. Blair\*  
Bradley Arant Boult Cummings LLP  
1615 L Street, N.W., Suite 1350  
Washington, DC 20036  
(202) 719-8216  
jsweeney@bradley.com  
jporter@bradley.com  
cblair@bradley.com

*\*Pro hac vice application forthcoming*

**LOCAL RULE 7.1(a)(2) CERTIFICATION**

I, Jacob J. Lantry, counsel for amicus curiae National Shooting Sports Foundation in the above captioned matter, hereby certify that, pursuant to Rule 7.1(a)(2) of the Local Rules of the United States District Court of Massachusetts, James W. Porter conferred with David Jenkins, counsel for Plaintiffs, on April 17, 2020, by telephone, and Gary Klein, counsel for Defendants on April 17 and 20, 2020, by email regarding this Motion. Plaintiffs consent to NSSF's filing its amicus brief; Defendants do not.

Dated: April 23, 2020

/s/ Jacob J. Lantry  
Jacob J. Lantry

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 23, 2020, this Motion for Leave to File Amicus Brief was served, via electronic delivery to all counsel via CM/ECF system which will forward copies to Counsel of Record.

/s/ Jacob J. Lantry  
Jacob J. Lantry